

**Firefighters' Pension Scheme Advisory Board for Wales**

**20 March 2018, Welsh Government Office, Llandrindod Wells, LD1 5HA**

**Minutes**

**Members**

Michael Prior (MP)	Independent Chair
Cllr Sue Pickering (SP)	South Wales Fire and Rescue Authority
Cllr Claire Mills (CM)	Mid and West Wales Fire and Rescue Authority

**Officers in attendance**

Julie Brown (JB)	North Wales fire and Rescue Service
Kevin Jones (KJ)	Mid and West Wales Fire and Rescue Service
Mark Malson (MMa)	South Wales Fire and Rescue Service

**Others in Attendance**

Glyn Morgan (GM)	Fire Officers' Association
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**Welsh Government Officials (Secretariat)**

Kerry Citric (KC)	Fire Services Branch
Cerys Myers (CLM)	Fire Services Branch
Natalie Spiller (NS)	Fire Services Branch

**Via Telephone Link**

Sean Starbuck (SS)	Fire Brigades Union
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**Observers**

Chris Barton (CB)	South Wales Fire and Rescue Service
Mark Miles (MM)	Mid and West Wales Fire and Rescue Service

**Apologies**

Cllr Bryan Apsley	North Wales Fire and Rescue Authority
Richard Fairhead	Association of Principal Fire Officers
Grant Mayos	Fire Brigades Union, Executive Council Member for Wales
Paul Scott	Fire Officers' Association
Adrian Hughes	Retained Firefighters Union
Clair Alcock	Local Government Association

**1. AGENDA ITEM 1 – WELCOME AND INTRODUCTIONS**

1.1 MP welcomed everyone to the meeting. MP expressed his gratitude to the emergency services for their response to the severe weather conditions experienced in Wales.

1.2 CLM provided apologies for Cllr Bryan Apsley, Richard Fairhead, Grant Mayos, Adrian Hughes, Clair Alcock and Paul Scott and noted that Glyn Morgan had attended to represent Fire Officers' Association.

1.3 MP advised the Board that Richie Fairhead had been appointed by the Cabinet Secretary to represent Association of Principal Fire Officers.

1.4 Members confirmed they had no conflicts of interest to declare.

## **2. AGENDA ITEM 2 – MINUTES FROM LAST MEETING**

2.1 MP referred to the minutes of the previous meeting held on 27 November and invited members to agree the minutes for accuracy. No comments were made and the minutes were agreed as a true record.

### **MATTERS ARISING**

2.2 MP acknowledged that the majority of action points from the last meeting related to the valuation assumptions which had been completed. A further update on the Valuation as well as updates on Pensionable Pay and Local Pension Boards would be covered by the agenda.

2.3 MP referred to the outstanding actions from the meetings held on 27 April and 3 October 2016 and invited SS to provide an update.

- *Provide information on the number of 2007 Scheme firefighters interested in transferring to the 2015.* SS explained that the information was dependent on the outcome of an employment tribunal.
- *To consider a proposal to allow members of the 2007 scheme to transfer their pension into the 2015 scheme.* MP acknowledged that this action was dependent on the action above. MP stated that both action points had been on the agenda for some time and asked SS if he would be content for the Secretariat to remove them with the option to raise the matter again at a future meeting if it would be relevant to do so. SS agreed with this approach.
- *Protected Pension Age* - SS explained that the matter related to 1992 Scheme members who had a protected pension age of 50, and the potential significant tax implications for those who retire and re-enter the Service on a part time basis. Three cases in South Wales FRA had been referred to the Pensions Ombudsman on the basis that the FRA had failed to provide advice to their firefighters on this matter. South Wales FRA was awaiting the determination from the Pensions Ombudsman. South Wales FRA had since ensured that all staff had been fully briefed about the implications to avoid recurrence. KJ and JB confirmed that there had been no cases in Mid and West Wales FRA and North Wales FRA. SS added that whilst the matter directly impacted South Wales FRA, it was relevant to the wider SABW in respect of the impact from lack of communication regarding tax legislation changes. SS requested the item remain on the agenda and agreed to provide an update at the next meeting.

2.4 SS asked if an update could be provided on Past Service Costs. Welsh Government had written to HM Treasury in October outlining the SABW's support of the position set out by the SABE. KC confirmed that the Welsh Government had sought an update from HM Treasury in December and were informed that a final decision had not yet been reached. SS encouraged Welsh Government to press HM Treasury for a response as it was likely that the matter would have implications for a case in Mid and West Wales FRA.

**ACTION: Welsh Government to seek an update from HM Treasury in relation to Past Service Costs.**

### **3. AGENDA ITEM 3 – 2016 VALUATION**

3.1 MP thanked members for their contributions to the consultation response on the draft valuation assumptions report that was issued to Welsh Government in December on behalf of the SABW.

3.2 KC explained that Welsh Government had discussed the SABW's comments with the Government Actuaries Department (GAD), had shared evidence regarding commutation with HM Treasury, and were proposing to formally respond to SABW in due course. Welsh Government had decided to delay this response until HM Treasury had formally published their 2016 valuation regulations which would include updates on some of the assumptions that SABW had raised issues about, namely commutation rates and the use of up to date ONS data. This delay would provide for more detailed and informed feedback to the Board. Aside from commutation, discussions with GAD had focussed on age based retirement and mortality rates.

3.3 Whilst Welsh Government had some sympathy with the SABW's view on using the same age retirement assumption as England, there was insufficient evidence on which to base a revised assumption. The assumption used was also the same as that used in the 2012 valuation (which had been based on the proposed scheme B – different early retirement factors and accrual rates for Wales). Instead Welsh Government agreed with GAD that the assumptions report would include a paragraph to indicate that the rate of early retirement could potentially be higher in Wales, but that any difference would not be material to the valuation.

3.4 The SABW had queried the use of English data for the pensioner mortality rate assumption. GAD had explained that the same assumption had been used for England, Wales and Northern Ireland; Scotland was the only scheme to have different mortality rates as there was a significant difference in deaths compared with the rest of the UK. As a result, Welsh Government agreed the assumption originally proposed and this position would be reflected in the final response to SABW.

3.5 SS added that HM Treasury's response to the SABE had indicated that Office for National Statistics 2016 data would be used for the pension mortality rates.

3.6 SS referred to the assumption regarding promotional pay increases and queried whether GAD had taken account of changes to regulations introduced from 2013 with specific reference to removing temporary promotion from pensionable pay. KC said that Welsh Government would raise the matter with GAD.

**Action: Welsh Government to raise the change in legislation relating to temporary promotion with GAD.**

3.7 KC explained that the delay in the HM Treasury consultation on their updated Valuation and Cost Cap regulations was delaying the receipt of the draft valuation results from GAD. This was not unique to the Welsh firefighter schemes but applied to all the schemes. HMT had explained that they were mindful of the impact to the timetable and aimed to provide updates as soon as possible, likely to be in April.

3.8 KC added that as a result of the delay, GAD was unable to confirm when the final valuation report would be made available. It was likely that the SABW would be required to meet between May and October to discuss the valuation results. Timing was going to become difficult particularly if there was any breach of the Cost Cap which would require detailed discussions with SABW and potentially more formal consultation on scheme amendments which would need to come into force by 1 April 2019. The SABW said that they were disappointed with the position but appreciated that there was little that could be done until progress had been made by HM Treasury.

3.9 KC referred to the draft report on membership data (FPSABW(18)01 Annex 1) which was an accompanying document to the wider Valuation Report. The report included data collected from the FRA's which would feed into the overall Valuation. The report had been provided for information but members were invited to raise any issues that they had.

3.10 MP acknowledged that the report showed more than 6,000 individuals across the schemes. SS said that the report should not be looked at in isolation and should be compared to the membership reports of the schemes elsewhere. SS highlighted the difference in figures between the Welsh and English schemes; the number of active members in Wales had increased where as they had decreased in England. SS explained that any decrease was a cause for concern as it appeared to show more members were leaving the scheme than paying into it.

3.11 KJ and MM said that there were more on call Firefighters in Wales which may explain the large increase in number of deferred members. It was suggested that further work would be useful in relation to deferred members to explain the increase as it would have an impact on the cost of the schemes although this would place an additional burden on the scheme administrators. SS added that it was important to monitor the income and expenditure of the schemes as the total pensionable pay had increased by £5m since the last Valuation. MP advised the SABW that a paper on FRA Pension Fund Income and Expenditure

would be provided at the next meeting. This would include final figures for 2017-18.

**ACTION: Welsh Government to provide a paper on FRA Pension Fund Income and Expenditure at the next meeting.**

#### **4. AGENDA ITEM 4 – PENSIONABLE PAY**

- 4.1 MP referred to the Ombudsman's Determination on Pensionable Pay [PO-15584](#) which related specifically to an RDS firefighter in Warwickshire FRA. The Determination had found that as well as the retaining fee;- 'call out fees, hourly rates when attending incidents and training payments' should all count as pensionable pay. The FRAs confirmed that the Warwickshire case did not impact on them.
- 4.2 MP asked whether retrospection had been considered as part of the Determination. KC confirmed it had and that Warwickshire FRA was required to match the approach taken by the complainant (either to pay the employer contributions as a lump sum or in instalments).
- 4.3 MP invited SS and KJ to provide an update on progress with the further ombudsman case in Mid and West Wales FRA. SS advised that this case related to wholtime firefighters with additional contracts and allowances. That determination would have more of an impact than the Warwickshire case. KJ added that the Pensions Ombudsman had requested further information from Mid and West Wales FRA; the FRA was required to respond by 30 March 2018.
- 4.4 GM advised that the determination of the Warwickshire FRA case had been discussed at the SABE. Consideration had been given to the development of guidance on pensionable pay and bids would be invited from legal advisors to take the work forward. It was anticipated that a further update would be provided to the SABE in April.
- 4.5 MP suggested that a further update be provided at the next meeting.

**ACTION: Welsh Government to place Pensionable Pay on the agenda for the next meeting.**

#### **5. AGENDA ITEM 5 – SCHEME DATA**

- 5.1 CLM referred to Annex 1 which covered opt out data for the period April 2017 – January 2018 (Quarter 1-3). The data showed an increase in opt outs of 47 (10 wholtime members and 37 retained members). It was noted that the majority related to withdrawal following auto-enrolment in Mid and West Wales FRA.
- 5.2 SS asked whether the opt out data included information on members that did not enter the Scheme. It was confirmed that members would automatically be

entered into the Scheme at the point of joining the Service. KC advised that the data reflected individuals that had chosen to leave the Scheme within three months of joining.

- 5.3 CLM explained that Annex 2 provided members with an insight into the level of information collected from the FRAs. It captured information on length of pensionable service, age at opt out and reason for opt out. This detailed information had been provided to GAD in order to feed into the Valuation.
- 5.4 CLM explained that Welsh Government had previously revised the form to incorporate the 2015 scheme but invited members views on whether the form needed to be revised further, particularly in relation to the reason for opt out. The reason for the majority of opt outs of the information received from the FRAs was 'unknown / no reason provided'. CLM explained that the form provided a number of options for reason for opt out but queried whether they reflected reality; FRAs may have chosen the 'unknown' option by default.
- 5.5 JB indicated that North Wales FRA could query the reason for opt out with individual members; particularly in relation to older members. MM said that the majority of the opt outs in Mid and West Wales were related to auto-enrolment or due to temporary wholetime contracts, which are usually of a short-term nature. It was noted that many RDS members opted out because they already had pension schemes as part of their primary employment. It was suggested that it would be helpful to understand the reason why members had chosen to leave the scheme as this could help FRAs to encourage them to stay. FRAs agreed that they had a role if members had chosen to leave the scheme because they did not understand the benefits of being in the scheme but it was difficult to probe individuals as leaving the scheme was their choice. Members were under no obligation to disclose the reason for choosing to opt out.
- 5.6 KC pointed out that the 2014 modified scheme was not included in the scheme drop down box and this would be amended. Members were invited to provide any further feedback, particularly on the reason for opt out, following the meeting.

**ACTION: Welsh Government to amend the opt out data collection template to include reference to the 2014 modified scheme. Members to provide any further feedback in relation to the template to Welsh Government.**

- 5.7 It was agreed that Welsh Government would provide further detail on opt out data at the next meeting.

**ACTION: Welsh Government to provide an update on Opt Out Data including a breakdown of the detailed information collected.**

## **6. AGENDA ITEM 6 – UPDATES FROM LOCAL PENSION BOARDS**

*Scheme Advisory Board England*

6.1 In the absence of Clair Alcock, MP asked GM if he could provide an update from the SABE. GM advised that the SABE had met on 9 March. The SABE had received the results of the Scheme Advisory Board Survey of Firefighter Pension Scheme Local Pension Boards. As a result of the Survey, the SABE had agreed for further work to be undertaken by the Board's sub committees with the aim of developing guidance and support. MP explained that the SABE Survey differed to the Pension Regulator Survey; the former had focussed on the operation of the LPBs. MP asked if the Welsh FRAs had responded to the Survey. MM confirmed that Mid and West Wales had responded. North and South Wales FRA had not provided a response.

6.2 MP thanked the FRAs for agreeing a joint approach to submitting updates to the SABW.

### ***North Wales FRA***

6.3 JB explained that following a change in LPB representation, the first meeting of the new board had focussed on the importance of communication. The LPB discussed the different methods used to communicate with members and the regularity of doing so to ensure information is provided to the right people in a timely manner. The next meeting was scheduled to take place in April.

6.4 GM advised that the SABE had established a sub committee and suggested that they may be able to provide some information to feed into North Wales' work. JB said that she had received information from the LGA in regard to templates and guidance and these had been provided to the scheme administrators.

### ***South Wales FRA***

6.5 MMA thanked MP for attending the February meeting to provide an overview of the work of the SABW. The LPB had received a number of reports to make them aware of the issues in relation to the valuation assumptions. The LPB had received an update on the LGA Pension Tax Seminar which had focussed on Annual Allowances and Lifetime Allowances. The importance of training was highlighted especially in relation to complying with the Pensions Regulator. MMA added that the FRA had however received a number of resignations and therefore further training would be required on appointment of new members following the Annual General Meeting in July. It was anticipated that future LPB meetings would take place in July, October and February.

### ***Mid and West Wales FRA***

6.6 MM advised that the LPB had met on 12 March. The LPB had considered the Service Level Agreement (SLA) with the Authority's third-party Pension Scheme Administrators. A sample of Key Performance Indicators was to be agreed to monitor performance against the SLA. The LPB was made aware of the requirements of the General Data Protection Regulations (GDPR) and the impact it would have in relation to the pension schemes. The LPB had considered and agreed for the FRA to adopt a Voluntary Scheme Pays Policy. The Pension

Scheme Administrators, Carmarthenshire County Council provided an update on the Guaranteed Minimum Pension (GMP) reconciliation process and further updates on 'My Pension online' and Pension Increases were given. The LPB also received a verbal update on the SABW.

6.7 MP thanked the FRAs for their updates and said that the collaborative template allowed the SABW to easily view developments and enabled each of the FRAs to keep abreast with pension matters across Wales.

6.8 MP acknowledged that GDPR was to come into force in May 2018 and referred to a LGA data event scheduled on 29 May. It was noted that :-

- the matter had been placed on the agenda for the next North Wales LPB meeting.
- Both Mid and West Wales FRA and South Wales FRA confirmed that their shared Data Protection Officer was to attend the data event.

## 7. AGENDA ITEM 7 – FIREFIGHTERS' PENSION SCHEME AMENDMENTS

7.1 KC advised that Welsh Government consultation on the 2 orders relating to survivor benefits on remarriage and the 2015 scheme amendments had closed in December. A response had been received from each of the three FRAs. There were no issues relating to the minor amendments to the 2015 scheme but members noted the following in respect of survivor benefits:-

- ***Surviving partners (of firefighters who died as a result of injury while on duty) entitlement to death benefit on re-marriage - Amendments to the 1992 pension scheme and the 2007 compensation scheme***

7.2 KC explained that the consultation had provided four options regarding retention of survivors' benefits on remarriage or forming new civil partnerships, including varying levels of retrospection. Welsh Government had identified their preferred option which was to remove the rule which removed benefits on remarriage from 1 April 2015 and to reinstate benefits for those that had already lost them from that date. One FRA had however suggested that this approach would not provide consistency with the recent Supreme Court rulings in the cases of [Walker](#) and [Brewster](#). As part of the post consultation process, Welsh Government had therefore reviewed the potential costs of applying full retrospection to the point when entitlement had been removed. Whilst the numbers affected by the proposed amendment were very low, the actual costs associated with such a decision would have placed a considerable burden on FRAs. As a result, Welsh Government had decided to continue with their original preferred option.

- ***Brewster (to remove the requirement for scheme members to nominate a cohabiting partner to receive survivor benefits) – Amendment to the 2007 pension scheme***



- 7.3 KC explained that the consultation had not included details of amendments to the 2007 scheme in respect of the Supreme Court judgment in the case of Brewster - rather the consultation had indicated that these amendments would be added to the order, post consultation. These amendments had now been added.
- 7.4 Welsh Government had drafted the Government response to the consultation and hoped to make and lay the Orders and publish the response shortly. As the Order related to retrospection, there was no requirement to introduce by a specific date but KC indicated that it was likely to come into force in May or June.
- 7.5 In terms of wider survivor benefit issues, Welsh Government had sought legal advice on the implications of the Walker v Innospec judgment, Welsh Government was waiting for further legal advice from HM Treasury. A consultation may be required in respect of amendments to the 1992 Scheme.
- 7.6 As part of the existing consultation, KC explained that one FRA had raised wider concerns about survivors of firefighters (other than those killed on duty) who had lost their survivor pension on remarriage under the 1992 scheme. This was outside of the scope of the consultation but Welsh Government's response recognised that there remained inequalities in survivor benefits. KC asked whether SABW had any views. The Board agreed that consideration should be given to equalisation of all survivor benefits, but noted that this was not an issue that could be considered in isolation for the Welsh Firefighter Schemes. It would involve all public sector schemes and the cost implications could be considerable.
- 7.7 It was agreed that the secretariat should inform HM Treasury of the SABW's general views on this issue, and establish whether they had any plans to review survivor benefits across public sector schemes.

**ACTION: Welsh Government to inform HM Treasury of the SABW's general views on survivor benefits and establish whether HM Treasury have any plans to review survivor benefits across public sector schemes.**

- 7.8 GM said that the issue relating to forfeiture had been raised with Home Office and HM Treasury on many occasions and welcomed the SABW looking into it. GM agreed to raise the matter with Clair Alcock and Malcolm Eastwood (Chair of the SABE) at the next SABE meeting.

## **8. AGENDA ITEM 8 – GUARANTEED MINIMUM PAYMENT – FRA RECONCILIATION EXERCISE**

- 8.1 KC explained that HM Treasury had arranged to hold a working group to focus on GMP reconciliation, overpayments and a number of other technical issues that had arisen. KC had asked whether an FRA (as the scheme managers) could represent the Welsh Scheme but a response had not been received.

8.2 MP invited the FRAs to provide an update. All three FRAs confirmed that the scheme administrators had made good progress with the data reconciliation exercise and appeared to be on target to meet the deadline of December 2018.

## **9. AGENDA ITEM 9 – ANY OTHER BUSINESS**

9.1 MP asked whether members had any other business to report. JB informed the SABW that North Wales FRA had received a complaint in relation to the RDS Modified Scheme. North Wales FRA had completed stages 1 and 2 of the Internal Dispute Resolution Process (IDRP). The case had been referred to the Pensions Ombudsman. MMA confirmed that South Wales FRA had received a similar complaint but the case was not at IDR stage.

9.2 KC referred to the date of the next meeting which had been scheduled to take place in July 2018. KC advised that an additional meeting may need to be arranged to discuss the Valuation if the timing of the report did not coincide with the meetings already scheduled.

**ACTION: Welsh Government to confirm details of next meeting once clarity regarding timing of the Valuation report is received.**